

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

CRAIG BYRON THARP	§	
v.	§	CIVIL ACTION NO. 5:05cv6
WARDEN DAVID JUSTICE, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Craig Tharp, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Tharp complained about the medical care which he received while confined in the Federal Correctional Institution in Texarkana, Texas. After ordering and receiving materials pertinent to a just and fair adjudication of the claim, *see Cay v. Estelle*, 789 F.2d 318 (5th Cir. 1096) and *Parker v. Carpenter*, 978 F.2d 190, 191-92 and n.2 (5th Cir. 1992), the Magistrate Judge issued a Report on April 27, 2006, recommending that the lawsuit be dismissed with prejudice as frivolous and, in the alternative, for failure to exhaust administrative remedies. A copy of this Report was sent to Tharp's last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and, in the alternative, for failure to exhaust administrative remedies. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 16th day of June, 2006.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE